

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

OCTOBER 6, 2005

The Marlboro Township Council held a regularly scheduled Council meeting on October 6, 2005 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 7, 2005; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilman Denkensohn, Councilman Mione, Council President Pernice. Council Vice President Morelli was absent.

Also present were: Mayor Robert Kleinberg, Andrew Bayer, Esq., Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta and Deputy Clerk Deborah Usalowicz.

As unfinished business from the Council meeting of September 22, 2005, the following Resolution # 2005-409A (Rescinding Contract Farkas and awarding State Contract to W.B. Mason Company - Office Furniture) was introduced by reference, offered by Councilman Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2005-409A

RESOLUTION RECINDING THE CONTRACT AWARDED TO HERBERT L. FARKAS COMPANY FOR THE PURCHASE AND INSTALLATION OF OFFICE FURNITURE FOR THE MARLBORO TOWNSHIP MUNICIPAL COMPLEX AND AWARDING SAID CONTRACT TO W.B. MASON COMPANY, INC. UNDER STATE CONTRACT #56310

WHEREAS, by Resolution #2005-233, the Township awarded a contract (the "Contract") to Herbert L. Farkas Company, 156 Algonquin Parkway, Whippany, NJ 07981 ("Farkas Company") for the purchase and installation of office furniture for the Marlboro Township Municipal Complex under State Contract #A57058 for the amount of \$195,994.20; and

WHEREAS, approximately \$63,909.34 has been paid to Farkas Company under the Contract; and

WHEREAS, Farkas Company is unable to provide the additional materials and services required by the Contract; and

WHEREAS, Administration and the Township Attorney recommend that the Contract be rescinded and that a new contract be awarded to W.B. Mason Company, Inc., 535 Seacaucus Road, Secaucus, New Jersey 07094 under State Contract #56310 for the purchase and installation of the remaining office furniture for the amount of \$128,090.10; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, funds are available in Capital Account Numbers X-04-55-900-928, X-04-55-907-929, X-04-55-907-928, X-04-55-918-928, X-04-55-918-929, X-04-55-934-928, X-04-55-934-929, X-04-55-943-901 and have been certified to by the Chief Financial Officer of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the remaining portion of the Contract awarded to Farkas

Company to purchase and install office furniture for the Township of Marlboro Municipal Complex under State Contract #A57058 be and hereby is rescinded; and

BE IT FURTHER RESOLVED, that a new contract be and hereby is awarded to W.B. Mason Company, Inc., under State Contract #56310 for the purchase and installation of the remaining office furniture for the amount of \$128,090.10; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Herbert L. Farkas Company, Whippany, NJ
- b. W.B. Mason Company, Inc.
- c. Township Administrator
- d. Township Department of Public Works
- e. Township Chief Financial Officer
- f. Gluck Walrath, LLP

Council President Pernice opened the Public Hearing on Ordinance # 2005-36 (General Obligation Bond Ordinance). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2005-410/Ord. # 2005-36 (General Obligation Bond Ordinance) was introduced by reference, offered by Council President Pernice, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 (Absent: Morelli).

RESOLUTION # 2005-410

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-36

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$2,195,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$2,085,000 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

which was introduced on September 8, 2005, public hearing held October 6, 2005, be adopted on second and final reading this 6th day of October, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2005-36

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR VARIOUS GENERAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF MARLBORO AND APPROPRIATING \$2,195,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$2,085,000 IN BONDS OR NOTES OF THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The several improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") as general improvements. For the several improvements or purposes described in Section 3 hereof, there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement or purpose, such sums amounting in the aggregate to \$2,195,000, including the sum of \$110,000 as the several down payments required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$2,085,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The several improvements hereby authorized and the several purposes for which the bonds or

notes are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

- (1) Purpose: Acquisition of an acoustical system for the Administration Department, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$52,500
Maximum Amount of Bonds or Notes:	\$49,875
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 2,625

- (2) Purpose: Acquisition of office equipment and furnishings for the Administration Department, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$82,162
Maximum Amount of Bonds or Notes:	\$78,053
Period or Average Period of Usefulness:	5 years
Amount of Down Payment:	\$ 4,109

- (3) Purpose: Improvements to the Municipal Building canopy and vestibule, as more fully described on a list on file with the Township Clerk, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$44,600
Maximum Amount of Bonds or Notes:	\$42,128
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 2,472

- (4) Purpose: Road improvements to and reconstruction of Route 520 from Lowe's to the Old

Bridge Border, located in the Township, as more fully described on a list on file with the Township Clerk, and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$15,750
Maximum Amount of Bonds or Notes:	\$14,962
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 788

(5) Purpose: Road improvements to the Pleasant Valley and Conover Road intersection, located in the Township, as more fully described on a list on file with the Township Clerk and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$68,250
Maximum Amount of Bonds or Notes:	\$64,837
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 3,413

(6) Purpose: Road improvements to Igoe Road, located in the Township, as more fully described on a list on file with the Township Clerk and including all else necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$52,500
Maximum Amount of Bonds or Notes:	\$49,875
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 2,625

(7) Purpose: Road improvements to School Road East and Route 79 intersection, located in the Township, as more fully described on a list on file

with the Township Clerk and
including all else necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$273,000
Maximum Amount of Bonds or Notes:	\$259,350
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 13,650

(8) Purpose: Road improvements to
Robertsville Road and
Gordons Corner Road
intersection, located in the
Township, as more fully
described on a list on file
with the Township Clerk and
including all else necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$168,000
Maximum Amount of Bonds or Notes:	\$159,600
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 8,400

(9) Purpose: Road improvements to
Lafayette/Robertsville Roads
and Robertsville/Clubhouse,
located in the Township, as
more fully described on a
list on file with the
Township Clerk and including
all else necessary therefor
or incidental thereto.

Appropriation and Estimated Cost:	\$15,750
Maximum Amount of Bonds or Notes:	\$14,962
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 788

(10) Purpose: Drainage improvements to
Station Road from Route 79
to Crine Road, located in
the Township, as more fully
described on a list on file
with the Township Clerk, and
including all else necessary

therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$341,250
Maximum Amount of Bonds or Notes:	\$324,187
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 17,063

(11) Purpose: Township-wide Stream
Cleaning Program, as more
fully described on a list on
file with the Township
Clerk, and including all
work and materials necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$21,000
Maximum Amount of Bonds or Notes:	\$19,950
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 1,050

(12) Purpose: Sidewalk repairs to Route 79
from the High School to
Route 520, as more fully
described on a list on file
with the Township Clerk, and
including all work and
materials necessary therefor
or incidental thereto.

Appropriation and Estimated Cost:	\$57,750
Maximum Amount of Bonds or Notes:	\$54,862
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 2,888

(13) Purpose: Acquisition of video and
digital duplication
equipment for the Township
Police Department, and
including all work and
materials necessary therefor
or incidental thereto.

Appropriation and Estimated Cost:	\$5,775
Maximum Amount of Bonds or Notes:	\$5,486
Period or Average Period of Usefulness:	10 years

Amount of Down Payment: \$ 289

(14) Purpose: Acquisition of computer software and computer hardware for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$52,500
Maximum Amount of Bonds or Notes: \$49,875
Period or Average Period of Usefulness: 5 years
Amount of Down Payment: \$ 2,625

(15) Purpose: Acquisition of modems for Township Police Department patrol vehicles, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$18,900
Maximum Amount of Bonds or Notes: \$17,955
Period or Average Period of Usefulness: 5 years
Amount of Down Payment: \$ 945

(16) Purpose: Acquisition of a printer, fax and initial training thereon for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost: \$1,838
Maximum Amount of Bonds or Notes: \$1,746
Period or Average Period of Usefulness: 10 years
Amount of Down Payment: \$ 92

(17) Purpose: Acquisition of various office equipment and furniture for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$26,250
Maximum Amount of Bonds or Notes:	\$24,937
Period or Average Period of Usefulness:	5 years
Amount of Down Payment:	\$ 1,313

(18) Purpose: Analysis of Township Police Department radio system, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$18,375
Maximum Amount of Bonds or Notes:	\$17,456
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 919

(19) Purpose: Acquisition of Office of Emergency Management vehicle equipment for the Township Police Department evidence room, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$10,500
Maximum Amount of Bonds or Notes:	\$ 9,975
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 525

(20) Purpose: Acquisition of 2 digital breathalyzers for the Township Police Department, and including all work and materials necessary therefor or incidental thereto.

Appropriation and Estimated Cost:	\$26,250
Maximum Amount of Bonds or Notes:	\$24,937
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 1,313

(21) Purpose: Acquisition of communications equipment for the Township Police Department, and including all work and materials

necessary therefor or
incidental thereto.

Appropriation and Estimated Cost:	\$28,350
Maximum Amount of Bonds or Notes:	\$26,932
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 1,418

(22) Purpose: Acquisition of a FN303 Less
Lethal Launcher for the
Township Police Department,
and including all work and
materials necessary therefor
or incidental thereto.

Appropriation and Estimated Cost:	\$1,050
Maximum Amount of Bonds or Notes:	\$ 997
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 53

(23) Purpose: Acquisition of a four wheel
drive vehicle for the
Township Detective Bureau,
and including all work and
materials necessary therefor
or incidental thereto.

Appropriation and Estimated Cost:	\$30,450
Maximum Amount of Bonds or Notes:	\$28,927
Period or Average Period of Usefulness:	5 years
Amount of Down Payment:	\$ 1,523

(24) Purpose: Acquisition and installation
of a flashing advanced
warning light at
Robertsville Road in the
Township, and including all
work and materials necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$11,025
Maximum Amount of Bonds or Notes:	\$10,473
Period or Average Period of Usefulness:	10 years
Amount of Down Payment:	\$ 552

(25) Purpose: Acquisition of an emergency
generator for the Township

Administration and Police
Buildings, and including all
work and materials necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$309,750
Maximum Amount of Bonds or Notes:	\$294,262
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 15,488

(26) Purpose: Improvements to the Union
Hill Commuter Lot, as more
fully described on a list on
file with the Township
Clerk, and including all
work and materials necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$356,475
Maximum Amount of Bonds or Notes:	\$338,651
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 17,824

(27) Purpose: Improvements to Township
parks and acquisition of
various equipment, as more
fully described on a list on
file with the Township
Clerk, and including all
work and materials necessary
therefor or incidental
thereto.

Appropriation and Estimated Cost:	\$105,000
Maximum Amount of Bonds or Notes:	\$ 99,750
Period or Average Period of Usefulness:	15 years
Amount of Down Payment:	\$ 5,250

(b) The estimated maximum amount of bonds or notes
to be issued for the several improvements or purposes is
as stated in Section 2 hereof.

(c) The estimated cost of the several improvements
or purposes is equal to the amount of the appropriation
herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8.1. The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the Township may lawfully undertake as a general improvement,

and no part of the costs thereof have been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the several improvements or purposes, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 12.29038 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$2,085,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$110,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the several improvements or purposes.

(e) The Township reasonably expects to commence the acquisition and/or construction of the several improvements or purposes described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the Township further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized

hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. The Township hereby covenants to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 10. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The Public Hearing on these ordinances were held and closed on Sept. 22nd: Res. # 2005-385/Ord. #2005-44 (Plot Plan Ordinance); Res. # 2005-386/Ord. #2005-45 (Ornamental Landscape Structure) and Res. # 2005-387/Ord. #2005-46 (off-street parking and garages). Council President Pernice motioned to table those ordinances to the October 20th agenda, pending review of reports from the Planning Board. Motion to table was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot in favor of tabling (Absent: Morelli).

Council President Pernice opened the Public Hearing on Ordinance #2005-47 (Stormwater Control Ordinance). After the Public Hearing, Councilman Cantor motioned to table Resolution #2005-411/Ordinance #2005-47 (Stormwater Control Ordinance) to the October 20, 2005 Council meeting. Motion to table was seconded by Councilman Mione, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Morelli).

Council President Pernice opened the Public Hearing on Ordinance #2005-49 (Amend Not for Profit). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2005-412/Ord. #2005-49 (Amend Not for Profit) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Mione and passed on a roll call vote of 4 - 0 (Absent: Morelli).

RESOLUTION # 2005-412

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-49

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 184-14.3 "EXEMPTIONS FROM FEES", ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO

which was introduced on September 22, 2005, public hearing held October 6, 2005, be adopted on second and final reading this 6th day of October, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Pernice opened the Public Hearing on Ordinance #2005-50 (Daily Parking - Union Hill Park). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2005-413/Ord. #2005-50 (Daily Parking - Union Hill Park) was introduced by reference, offered by Councilman Mione, seconded by Council President Pernice and passed on a roll call vote of 4 - 0 (Absent: Morelli).

RESOLUTION # 2005-413

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-50

AN ORDINANCE AMENDING SECTION 138-37 "ADDITIONAL PARKING AND TRAFFIC REGULATIONS", ARTICLE XIII "SEMIPUBLIC AND PRIVATE ROADS AND PARKING AREAS", CHAPTER 138 "VEHICLES AND TRAFFIC" AND ARTICLE IA "DAILY PARKING SECTION OF UNION HILL LOT", CHAPTER 103 "PARKING: MUNICIPAL FACILITIES" OF THE CODE OF THE TOWNSHIP OF MARLBORO

which was introduced on September 22, 2005, public hearing held October 6, 2005, be adopted on second and final reading this 6th day of October, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Pernice opened the Public Hearing on Ordinance #2005-51 (Traffic Regulations - Orchards). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution #2005-414/Ord. #2005-51 (Traffic Regulations - Orchards) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 (Absent: Morelli).

RESOLUTION # 2005-414

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-51

AN ORDINANCE MAKING THE PROVISIONS OF SUBTITLE ONE OF TITLE 39 WITH VARIOUS TRAFFIC REGULATIONS APPLICABLE TO ORCHARDS AT MARLBORO CONDOMINIUMS AND REGULATING THE USE OF SAID ROADWAYS, STREETS, DRIVEWAYS AND PARKING LOTS BY MOTOR VEHICLES

which was introduced on September 22, 2005, public hearing held October 6, 2005, be adopted on second and final reading this 6th day of October, 2005.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution #2005-415/Ord. #2005-52 (Police DWI) was introduced by reference, offered by Councilman Cantor and seconded by Councilman Mione. After discussion, the following Res. #2005-415/Ord #2005-52 was passed on a roll call vote of 3 - 0 with Councilman Denkensohn abstaining (Absent: Morelli).

RESOLUTION # 2005-415

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-52

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 108 "PEACE AND GOOD ORDER" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ADD A NEW ARTICLE PERMITTING THE MARLBORO TOWNSHIP POLICE DEPARTMENT TO HOLD IN PROTECTIVE CUSTODY ANY INDIVIDUALS WHO HAVE BEEN ARRESTED FOR A VIOLATION OF N.J.S.A. 39:4-50

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 20, 2005 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2005-52

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 108 "PEACE AND GOOD ORDER" OF THE CODE OF THE TOWNSHIP OF MARLBORO TO ADD A NEW ARTICLE PERMITTING THE MARLBORO TOWNSHIP POLICE DEPARTMENT TO HOLD IN PROTECTIVE CUSTODY ANY

INDIVIDUALS WHO HAVE BEEN ARRESTED FOR A
VIOLATION OF N.J.S.A. 39:4-50

WHEREAS, pursuant to N.J.S.A. 40-48.1.3, a municipality may enact an ordinance providing that a person who is arrested for a violation of N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself or others; and

WHEREAS, the Mayor and the Township Council recommend that the Code of the Township of Marlboro be amended so the Marlboro Township Police Department may hold in protective custody any person who is arrested for a violation of N.J.S.A. 39:4-50 at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself or others.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 108 "Peace and Good Order" of the Code of the Township of Marlboro be amended and supplemented to add a new Article which shall read in its entirety as follows:

Article III, Holding DUI Arrestees in Protective Custody

§ 108-8 Detention of DUI Arrestees

A. Any person who is arrested for a violation of the provisions of N.J.S.A. 39:4-50 by the Marlboro Township Police Department shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself or others.

B. A person who is arrested for a violation of the provisions of N.J.S.A. 39:4-50 by the Marlboro Township Police Department and is detained pursuant to Section 108-8(A) is no longer a danger to himself or others when the person's blood alcohol concentration is less than 0.05% and the person is no longer under the influence of any intoxicating liquor or narcotic or hallucinogenic or habit-forming drug to the

extent that the person's facilities are impaired. In no event shall a person be held in protective custody for a period of longer than eight hours without providing an appropriate hearing.

§ 108-9 Alternatives to Protective Custody

Notwithstanding the provisions of Section 108-8, provided that it is not a detriment to the public safety, the Marlboro Township Police Department may, because of the age, health or safety of the arrested person, release the person pursuant to the provisions of N.J.S.A. 39:4-50.22, *et seq.* or provide an appropriate alternative to protective custody. The municipality shall not be subject to liability if a person is released from custody pursuant to the provisions of this section.

§108-10 Use of State Police Facilities

Nothing in this Article III shall be construed as requiring the use of State Police facilities by a municipality for the purposes of this section.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Resolution #2005-416/Ord. #2005-53 (Street Lighting - Developers) was introduced by reference, offered by Councilman Cantor and seconded by Councilman Mione. After discussion, Res. #2005-416/Ord. #2005-53 was passed on a roll call vote of 4 - 0 (Absent: Morelli).

RESOLUTION # 2005-416

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2005-53

AN ORDINANCE ADDING A NEW SECTION TO ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO REQUIRING DEVELOPERS TO PAY A CONTRIBUTION FEE TOWARD STREET LIGHTING

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on October 20, 2005 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2005-53

AN ORDINANCE ADDING A NEW SECTION TO ARTICLE II "LAND USE PROCEDURES", CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS" OF THE CODE OF THE TOWNSHIP OF MARLBORO REQUIRING DEVELOPERS TO PAY A CONTRIBUTION FEE TOWARD STREET LIGHTING

WHEREAS, the Township has chosen to participate in a streetlight contribution program with the local electrical utility; and

WHEREAS, this contribution program requires a higher upfront outlay toward the purchase and installation of streetlights in exchange for reduced electrical bills over the life of the lights (the "Contribution Fee"); and

WHEREAS, the Mayor and the Township Council believe it is in the best interest of the residents of the Township of Marlboro to amend Chapter 84, "Land Use Development and Regulations" of the Code of the Township of Marlboro to require developers to pay the Contribution Fee and to also require developers to pay into an escrow account, as a condition of beginning construction activity, the operating costs associated with the

streetlights, until such time as the Township accepts the streets within the development; and

WHEREAS, the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.) permits the utilization of escrow accounts to ensure the installation and maintenance of improvements including street lighting.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that a new Section be and hereby is added to Article II "Land Use Procedures", Chapter 84 "Land Use Development and Regulations," to read in its entirety as follows:

"§ 84-26.1 Street Light Contribution Program and Operating Costs.

A. Street Light Contribution Program. Lights for illuminating streets, parking areas, driveways, walkways and other areas shall be of a type approved by the municipal agency empowered to grant site plan or subdivision approval and the electric utility company. The developer shall pay to the township an amount equal to the per street lighting unit installation charge, and the capital contribution to be paid by the township pursuant to the capital contribution program provided by the Jersey Central Power & Light Company, for each street lighting unit required to be installed by the developer either on or off-site along a street, parking area, walkway or other area dedicated or to be dedicated to the township or county, pursuant to the approval of the Zoning Board of Adjustment or the Planning Board, as the case may be. The amount of the required payment shall be included in the developer's agreement and shall be paid to the township prior to the commencement of construction activity by the developer. The payment shall be held in escrow by the Township Chief Financial Officer until paid to Jersey Central Power & Light Company for the installation of street lighting fixtures and payment of the capital contribution.

B. Operating Costs. Prior to the commencement of construction activity, the developer shall make a payment to an escrow account established by the township to fund the street light operating cost to be paid by the township to Jersey Central Power & Light Company. The initial payment to the escrow account shall be in a sufficient amount as calculated by the Township Engineer to cover the operating costs for a 24 month period. The escrow account shall be replenished as necessary until the township accepts the streets within the development. The Township Chief Financial Officer shall release to the township the monies paid for operating costs, in a current basis, as those charges become due.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Resolution #2005-417 (Authorizing Purchase of COAH Unit) was introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2005-417

A RESOLUTION AUTHORIZING THE PURCHASE OF 791
BANYAN COURT, MORGANVILLE, NEW JERSEY, AN
AFFORDABLE HOUSING UNIT, FOR RESALE

WHEREAS, the Township has learned that Principal Residential Mortgage, Inc., a first purchase money

mortgagor, has filed a foreclosure action in the Superior Court of New Jersey against Edward A. Apicella and Yvette Greenbaum Apicella (collectively, "the Apicellas"), the record owners of an affordable housing unit known as Lot 7 (C0791), Block 176 on the Tax Map of the Township, also known as 791 Banyan Court, Morganville, Marlboro Township (the "Property"); and

WHEREAS, on or around March 14, 2005, the Township filed an enforcement action against the Apicellas in the Superior Court of New Jersey, alleging that the Apicellas violated certain ordinances within of the Township's Code by failing to reside at the Property and illegally renting the Property to third parties; and

WHEREAS, on or around April 29, 2005, the Apicellas filed a Voluntary Petition for Chapter 13 bankruptcy protection in the U.S. Bankruptcy Court, Middle District of Pennsylvania (the "Bankruptcy Action"); and

WHEREAS, the Property was included in the Bankruptcy Action as an asset of the Apicellas; and

WHEREAS, upon the Township's objection to the Apicellas selling the Property as part of the Bankruptcy Action to satisfy certain of the Apicellas' creditors, the Apicellas have agreed to sell the Property to the Township; and

WHEREAS, such purchase an affordable housing unit by a municipality will maintain the affordable housing controls on that property; and

WHEREAS, the Administration recommends that the Township purchase the Property as part of the Bankruptcy Action and convey the Property to a household that has received written certification that it is a low- or moderate-income eligible household from the New Jersey Department of Community Affairs (the "DCA") so that the affordability controls on the Property may be maintained; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to purchase the Property for these purposes.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township is authorized to purchase the Property through the Bankruptcy Action at a price of no more than the

maximum resale price of \$58,443.00 established by the DCA and convey the Property to a household that has received written certification that it is a low- or moderate-income eligible household from DCA so that the affordability controls on the Property may be maintained; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Vincent Rubino, Esq. of Newman, Williams, Mishkin, Corveleyn, Wolfe & Fareri.
- b. Susan J. Radom, Esq. of Radom & Wetter.
- c. Stephen McNally, Esq. of Harvey Pennington, P.C.
- d. Melissa Hoffman, Esq. of Phelan, Hallinan & Schmieg, P.C.
- e. Charles J. DeHart, Esq., U.S. Bankruptcy Trustee.
- f. New Jersey Department of Community Affairs, Housing Affordability Service.
- g. Township Administrator.
- h. Township Chief Financial Officer.
- i. Gluck Walrath, LLP.
- j. Township of Marlboro Affordable Housing Agency and Rent Control Board.

The following Resolution #2005-418 (Cancelling Checks - Various) as amended was introduced by reference, offered by Councilman Cantor, seconded by Councilman Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2005-418

WHEREAS, there exists various checks that have been outstanding for more than one year or have been held in the cash reconciliation of the Current Fund, Recreation Account, and

WHEREAS, these checks have been investigated and it is determined that these checks should be cancelled and the necessary entries be made in the books and records of the Township of Marlboro.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, that the following checks be cancelled and the necessary entries be made in the books and records of the Township of Marlboro.

CURRENT FUND ACCOUNT #2021113910187

<u>CHECK#</u>	<u>DATE OF ISSUE</u>	<u>AMOUNT</u>	<u>PAYEE</u>
41586	7/7/04	\$9.00	KELLY SILVEY
41694	7/21/04	\$5.00	NJ SEC.OF STATE
42520	10/27/04	\$579.97	VERIZON WIRELESS

The following Resolution # 2005-419 (Additional Items to be Declared Surplus) was introduced by reference, offered by Councilman Mione, seconded by Councilman Denkensohn and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli).

RESOLUTION # 2005-419

A RESOLUTION AUTHORIZING THE SALE OF PERSONAL PROPERTY NOT
NEEDED FOR PUBLIC USE

WHEREAS, the Township of Marlboro wishes to dispose of certain items of personal property which are in the Township's possession and not otherwise needed for public use; and

WHEREAS, the Business Administrator and Director of Public Works have estimated that the fair market value of the said items exceeds \$3,150.00; and

WHEREAS, N.J.S.A. 40A:11-36 requires that personal property of a municipality, not otherwise needed for public use, must be sold at public sale to the highest bidder(s), if the estimated fair market value of the property exceeds \$3,375.00 in any one sale; and

WHEREAS, notice of the date, time and place of the public sale of the aforementioned personal property of the Township of Marlboro is to be advertised in the Asbury Park Press pursuant to N.J.S.A. 40A:11-36.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro as follows:

1. The Township is authorized to hold a public sale as advertised to dispose of the items on the attached list, which are not otherwise needed for public use, to the highest bidder(s).
2. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Judith Tiernan, Business Administrator
 - b. Robert Holmes, Chief of Police
 - c. James Priolo, Township Engineer
 - d. Robert DiMarco, Superintendent of Public Works
 - e. Gluck Walrath LLP

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilman Denkensohn, seconded by Councilman Mione and passed on a roll call vote of 4 - 0 in favor (Absent: Morelli): Res. #2005-420 (Bingo License Amendments - St. Gabriel's Church), Res. # 2005-421 (Reject and Rebid - Calcium Chloride System) and Res. # 2005-422 (Change Order #1 - Earle Asphalt).

RESOLUTION # 2005-420

BE IT RESOLVED by the Township Council of the Township of Marlboro that an amendment to Bingo License # BL:01-04/05 be and it is hereby granted to St. Gabriel's Church Rosary-Altar Society, 100 North Main Street, Marlboro, New Jersey 07746 to allow a change to their conduct of games starting October 17, 2005 through December 19, 2005.

RESOLUTION # 2005-421

BE IT RESOLVED by the Township Council of the Township of Marlboro that all bids heretofore received for Liquid Agent Dispensing System for Public Works are hereby rejected and the Business Administrator is authorized and directed to return the bid bond or other security to the appropriate bidder.

BE IT FURTHER RESOLVED that the Business Administrator be and she is hereby authorized and directed to advertise for open, competitive bids for Liquid Agent Dispensing System for Public Works as required by law.

RESOLUTION # 2005-422

RESOLUTION AUTHORIZING CHANGE ORDER NO. 1,
2005 CAPITAL ROAD PROGRAM

WHEREAS, Resolution # 2005-366 awarded a contract to Earle Asphalt Company for road construction in the amount of \$572,313.13; and

WHEREAS, the Township Engineer and Director of Public Works recommend the authorization of Change Order No. 1 regarding an increase to the contract for installation of handicap ramps ((4) on Elkins Road & Taylor Road, (2) on Elkins & River Road), curbs and gutters (Wabash Road and Vernon Road) and driveway aprons ((1) Wabash Road and (4) on Vernon Road) in the amount of \$14,156.48 for a total contract sum of \$586,469.61; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That the Mayor is hereby authorized to execute and the Municipal Clerk to attest to Change Order No. 1 to the agreement between the Township of Marlboro and Earle Asphalt Company., in the form attached hereto, for an net additional consideration of \$14,156.48 for a total contract sum of \$586,469.61.
2. That the Chief Financial Officer has filed a Certificate of Availability of Sufficient Funds for this Change Order and attached same to this resolution.
3. That a certified copy of this resolution shall be provided to each of the following:
 - A. Earle Asphalt Company
 - B. Township Engineer
 - C. Director of Public Works
 - D. Chief Financial Officer
 - E. Township Attorney

The following items were carried to the October 20th agenda: Item #21 (Bond Reduction Crine West), Item #22 (Bond Release Famous Pino's Restaurant, Item #23 (Bond Release Lucas Brothers/Magnum Site Plan, Item #24 (Authorizing SCAT Agreement with Monmouth County) and Item #25 (Tax Collector Resolutions).

At 9:48PM, Councilman Denkensohn moved that the meeting be adjourned. This was seconded by Council President Pernice, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Morelli).

MINUTES APPROVED: November 3, 2005

OFFERED BY: Pernice AYES: 4

SECONDED BY: Denkensohn NAYS: 0

ABSTAIN: Morelli

ALIDA DE GAETA
MUNICIPAL CLERK

JOSEPH PERNICE
COUNCIL PRESIDENT